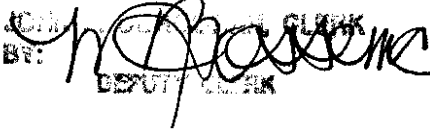


**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

CLERK'S OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA
FILED

AUG 31 2004

BY:  CLERK
DEPUTY CLERK

CYNTHIA B. EVANS,

Plaintiff,

v.

MEDTRONIC, INC.,

Defendant.

Case No. 3:04cv00014

RULE 41(a)(1)(ii) STIPULATION OF DISMISSAL

The parties, plaintiff Cynthia B. Evans and defendant Medtronic, Inc., by counsel, hereby STIPULATE to the DISMISSAL of this action in its entirety and WITHOUT PREJUDICE, pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii). In consideration for Medtronic, Inc.'s consent and agreement to this voluntary dismissal without prejudice, plaintiff Cynthia B. Evans agrees that if she, or anyone acting on her behalf, re-files this action or a similar action against Medtronic, Inc., or any of Medtronic, Inc.'s agents or employees, for injuries or damages allegedly arising out of the events, facts, and/or circumstances allegedly underlying and giving rise to the present action:

- 1) She will file such action in the United States District Court for the Western District of Virginia, Charlottesville Division;
- 2) She will not name any additional, non-diverse parties as defendants to such action; and
- 3) She will not request a trial by jury.

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